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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

SHERR, CRISTINA O

ART UNIT PAPER NUMBER

3621

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/741,725	SASAKI ET AL.	
	Examiner	Art Unit	
	Cristina Owen Sherr	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is in response to applicant's amendment filed October 21, 2005. Claims 2, 3, 4, 5, 6, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 26 have been amended. Claims 1-30 are pending in this case.

Response to Arguments

2. Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter et al (US 6,253,193).

5. Regarding claim 1 –

Ginter discloses a portable media device (e.g. col 238 ln 5-10), comprising: a memory configured to store digital content; a wireless transceiver configured to wirelessly transmit and receive digital content (e.g. fig 2 – 102); an output configured to render digital content (e.g. fig 2 – 108); and a controller (e.g. fig 2 – 106) coupled to the memory, the wireless transceiver and the output, the controller being configured to authorize wireless transmission of a transfer file to a third party device in accordance with meta-data (e.g. fig 2 – 110) associated with a particular digital content and without

regard to any identifier of the third party device, the transfer file including meta-data containing permissions information restricting rendering of the particular digital content by the third party device (e.g. fig 2 – 112).

6. Although Ginter does not use the terminology as the instant application nor use wireless technology in all the described embodiments, it does state that wireless devices can be used, and the differently termed components are functionally equivalent to those of the instant application.

7. Regarding claim 2 –

Ginter discloses the device of claim 1, wherein the controller is configured to control playback of a given digital content stored in the memory based upon a user license confirmation (e.g. col 1 ln 14-22).

8. Regarding claim 3 –

Ginter discloses the device of claim 2, wherein the controller is configured to confirm a user license for the given digital content based upon meta-data associated with the given digital content.(e.g. fig 2).

9. Regarding claim 4 –

Ginter discloses the device of claim 3, wherein the controller is configured to confirm the user license based upon a comparison of a user identifier embedded in the meta-data associated with the given digital content with a user identifier stored in the memory (e.g. col 268 ln 30-49, col 318, ln 22-34).

10. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter et al (US 6,253,193) in view of England et al (US 6,775,779).

11. Regarding claims 5-6 –

England discloses a device wherein the controller is configured to limit playback of the given digital content in response to a failed user license confirmation, which can easily include limiting playback to a sample in certain case. (e.g. col 1 ln 16-20).

12. It would be obvious to one of ordinary skill in the art to combine the teaching of England and Ginter as both are in the same field and would en to potentiate each other when it comes to the convenience and flexibility in handling licenses and permissions.

13. Claims 7-11 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter et al (US 6,253,193).

14. Regarding claim 7 –

Ginter discloses the device of claim 1, wherein the controller is configured to direct received digital content selectively to unrestricted memory storage or to restricted memory storage based upon a user license confirmation (e.g. col 10, ln 45—60).

15. Regarding claim 8 –

Ginter discloses the device of claim 7, wherein the controller is configured to direct licensed digital content to unrestricted memory storage and to direct unlicensed digital content to restricted memory storage (e.g. col 10, ln 45—60).

15. Regarding claim 9 –

Ginter discloses the device of claim 7, wherein the controller is configured to restrict storage of unlicensed digital works to a predetermined quantity (e.g. col 10, ln 45—60).

16. Regarding claim 10 –

Ginter discloses the device of claim 7, wherein the controller is configured to enable wireless transmission of digital content stored in unrestricted memory and to prevent wireless transmission of digital content stored in restricted memory (e.g. col 10, ln 45—60).

17. Regarding claim 11 –

Ginter discloses the device of claim 1, wherein the controller is configured to decrypt encrypted digital content with a cryptographic key stored in the memory (e.g. col 9 ln 22-35).

18. Regarding claim 21 –

Ginter discloses the portable media device of claim 1, wherein the controller is configured to control wireless transmission and rendering of the particular digital content based upon a comparison of a user identifier embedded in meta-data associated with the particular digital content with a user identifier stored in the memory (e.g. col 10, ln 45—60).

19. Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter et al (US 6,253,193) in view of England et al (US 6,775,779).

20. Regarding claims 22-24 –

England discloses the portable media device of claim 21, wherein the controller is configured to allow playback of the particular digital content subject to at least one playback restriction in response to a determination that the user identifier embedded in meta-data associated with the particular digital content fails to match any user identifier stored in the memory and wherein the at least one playback restriction corresponds to a

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threshold number of playback times after which only a sample of the particular digital content is renderable by the portable media device until after the controller determines that the user identifier embedded in meta-data associated with the particular digital content matches a user identifier stored in the memory and wherein the controller is configured to disable wireless transmission of the particular digital content in response to a determination that the user identifier embedded in meta-data associated with the particular digital content fails to match any user identifier stored in the memory. (e.g. col 1 ln 16-20).

21. It would be obvious to one of ordinary skill in the art to combine the teaching of England and Ginter as both are in the same field and would en to potentiate each other when it comes to the convenience and flexibility in handling licenses and permissions.

22. Claims 25-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter et al (US 6,253,193).

23. Regarding claim 25 –

Ginter discloses the portable media device of claim 1, wherein the controller is configured to assemble a transfer file comprising an encryption key for decrypting encrypted digital content, to encrypt the transfer file with an encryption key received from a second portable media device, and to cause the encrypted transfer file to be transmitted wirelessly to the second portable media device (e.g. col 9 ln 22-35).

24. Regarding claim 26 –

Ginter discloses the portable media device of claim 1, wherein the controller is configured to change a license status identifier associated with the particular digital content from unlicensed to licensed in response to a determination that a content identifier associated with the particular digital content matches a content identifier stored in the memory and corresponding to a previously licensed digital content file (e.g. col 268 ln 30-49, col 318, ln 22-34).

25. Regarding claim 27 –

Ginter discloses the portable media device of claim 1, wherein the controller is configured to transmit a user identifier assigned to the portable media device to a license manager after each transmission of digital content information from the portable media device to one or more other devices (e.g. fig 2).

26. Regarding claim 28 –

Ginter discloses the portable media device of claim 1, wherein the meta-data in the transfer file is encrypted with an encryption key transmitted by the third party device and received by the portable media device (e.g. fig. 2).

27. Regarding claim 29 –

Ginter discloses the portable media device of claim 1, wherein the transfer file includes an encrypted copy of the particular digital content wherein the copy of the particular digital content is encrypted with a content key, and the content key and the particular digital content are assembled into a content package encrypted with an encryption key transmitted by the third party device and received by the portable media device to form the transfer file (e.g. col 9 ln 22-35).

28. Claims 12-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter et al (US 6,253,193).

29. Regarding claim 12 –

Ginter discloses a digital content distribution system, comprising: two or more portable media devices (e.g. col 238 ln 5-10), each comprising: a memory for storing digital content (e.g. fig 2 – 102); a transceiver for wirelessly transmitting digital content to and wirelessly receiving digital content from another portable media device (e.g. fig 2 – 102); an output configured to render digital content(e.g. fig 2 – 102); and a controller coupled to the memory, the wireless transceiver and the output, the controller being configured to authorize wireless transmission of a transfer file to a third party device in accordance with meta-data associated with a particular digital content (e.g. fig 2 – 110) and without regard to any identifier of the third party device, the transfer file including meta-data containing permissions information restricting rendering of the particular digital content by the third party device; and a license manager configured to allocate an incentive (e.g. col 247 ln 5-10) having an exchangeable pecuniary value to a first user of a first one of the portable media devices licensed to transmit the particular digital content in response to receipt of an indication of a purchase of a license for the particular digital content by a second user of a .second one of the portable media devices who received a copy of the particular digital content from the first user (e.g. fig 2 – 112).

30. Although Ginter does not use the terminology as the instant application nor use wireless technology in all the described embodiments, it does state that wireless

devices can be used, and the differently termed components are functionally equivalent to those of the instant application.

31. Regarding claim 13 –

Ginter discloses the system of claim 12, further comprising a licensed distributor of the particular digital content configured to embed in meta-data associated with the particular digital content an identifier corresponding to the second user in response to the purchase of the license for the particular digital content (e.g. col 1 ln 14-22).

32. Regarding claims 14-16 –

Ginter discloses the system of claim 12, wherein the license manager is configured to allocate the incentive based upon meta-data associated with the particular phased digital content; wherein the license manager is configured to allocate an incentive to a digital content distributor in response to a purchase of a the digital content by a user of one of the portable media devices storing meta-data with an embedded distributor identifier corresponding to the digital content distributor; wherein the license manager is configured to allocate an incentive to a particular user of one of the portable media devices containing meta-data restricting playback of a given digital content in response to a purchase of a license for the digital content by the particular user (e.g. col 247 ln 5-10).

33. Regarding claims 17-20 –

Ginter discloses the system of claim 12, further comprising a licensed distributor configured to transmit to one or more of the portable media devices meta-data associated with broadcasted digital content and containing an embedded distributor

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identifier; wherein the license manager is configured to allocate an incentive to the licensed distributor in response to a purchase of the broadcasted digital content by a user of one of the portable media devices storing the meta-data with the embedded distributor identifier; wherein the licensed distributor is configured to allocate incentives based upon meta-data associated with the broadcasted phased digital content; and wherein the licensed distributor is configured to allocate an incentive to a user of one of the portable media devices containing restricted playback of the broadcasted digital content in response to a purchase of the broadcasted digital content by the user (e.g. col 247 ln 5-10, col 1 ln 14-22).

34. Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may be applied as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

35. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cristina Owen Sherr whose telephone number is 571-272-6711. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

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36. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

37. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

COS

:

Claim 17 (currently amended)

Shiva Patel
PRIMARY EXAMINER